

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ZONEPERFECT NUTRITION COMPANY

04 10760 REK

Plaintiff,

v.

CIVIL ACTION
NO.HERSHEY FOODS CORPORATION,
HERSHEY CHOCOLATE &
CONFECTIONERY CORPORATION, and
BARRY D. SEARS,

Defendants.

**PLAINTIFF'S EMERGENCY MOTION FOR A HEARING
ON SHORT ORDER OF NOTICE**

Pursuant to Rule 6(d) of the Federal Rules of Civil Procedure, plaintiff ZonePerfect Nutrition Company ("ZonePerfect"), hereby moves this Honorable Court for a hearing on short order of notice commanding defendants Hershey Foods Corporation and Hershey Chocolate & Confectionery Corporation (collectively "Hershey") and defendant Barry D. Sears ("Sears") to respond to plaintiff's Motion for Expedited Case Management Order and Prompt Trial Date. As set forth in plaintiff's Complaint, plaintiff's Motion for Expedited Case Management Order and Prompt Trial Date, and memorandum in support of plaintiff's Motion for Expedited Case Management Order and Prompt Trial Date, all submitted herewith, good cause exists for shortening the period of notice.

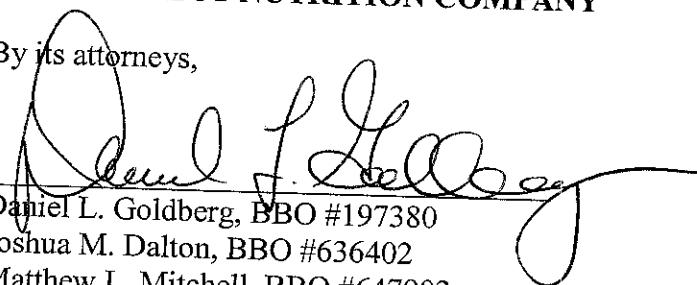
Any hardship which would be placed on the defendants by the allowance of this Motion is outweighed by the hardship that will accrue to the plaintiff if it is denied.

WHEREFORE, ZonePerfect respectfully requests that the Court shorten the period of notice required by Fed. R. Civ. P. 6(d) and schedule a hearing on ZonePerfect's Motion for Expedited Case Management Order and Prompt Trial Date at the earliest possible time convenient to the Court.

ZONEPERFECT NUTRITION COMPANY

By its attorneys,

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Dated: April 15, 2004